

**MINUTES  
FREMONT CITY COUNCIL WORK SESSION  
AND REGULAR MEETING  
DECEMBER 15, 2009  
FREMONT CITY HALL  
5:30 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order:** Mayor Wasserman called the meeting to order.
- 1.2 Flag Salute:** Councilmember Natarajan led the salute to the flag.
- 1.3 Roll Call:** Present: Mayor Wasserman, Vice Mayor Natarajan, Councilmembers: Wieckowski, Harrison, and Chan.
- 1.4 Announcements by Mayor/City Manager**

**2. WORK SESSION ITEMS**

**2.1 MIDTOWN DISTRICT COMMUNITY PLAN AND DESIGN GUIDELINES**

Community Development Director Jill Keimach provided background information and a status update of the project, reviewed the agenda for the presentation and introduced members of the Project Team. Crystal Barriscale (Project Director, HOK) provided a project overview comprised of the design elements, Community Plan outline, the Fremont Central Business District (CBD) Concept Plan goals, and introduced Midtown District Drivers, project introduction statement, and sustainability principles. Ms. Barriscale continued the presentation with a review of Midtown existing conditions. Jeremy Nelson (Nelson/Nygaard Consulting) reviewed existing traffic and transit conditions. Ms. Barriscale, Mr. Nelson, Paul Woolford (Design Architect, HOK), and Paul Lettieri (The Guzzardo Partnership) presented various Midtown Design concepts comprised of the following elements: sustainability, land use and building typologies, urban design, transportation and parking, Civic Art Program, graphics and signage, and civil engineering. Community Development Director Keimach reviewed next steps including stakeholder and Board/Commission input and refinement of the Plan. City Manager Fred Diaz provided closing comments and requested Council feedback related to the overall concept, sustainability approach, Street and Block Plan, streetscape design, and City offices and civic spaces. The consultants and staff responded to questions from Councilmembers. There were no speakers. Councilmembers provided comments to staff and the Consultant team related to the overall concept, sustainability approach, Street and Block Plan, streetscape designs, and City Offices and civic spaces.

**ADJOURNMENT**

There being no further business, Chairperson Wasserman adjourned the work session portion of the meeting at 7:05 p.m, and convened the regular City Council meeting, with the same attendance at 7:05 p.m.

\*Consent Items

### 3. CONSENT CALENDAR

- \* **3.1 Waive Reading of Ordinances:** The City Attorney read the titles of ordinances to be considered.

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council waived further readings of proposed ordinances.

Ayes:	Mayor Wasserman, Vice Mayor Wieckowski Councilmembers: Natarajan, Harrison and Chan
Noes:	None
Absent:	None
Abstain:	None

- \* **3.2 Approval of Minutes – for the Special Meeting of June 23, 2009**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council approved the minutes for the Special Meetings of June 23, 2009.

Ayes:	Mayor Wasserman, Vice Mayor Wieckowski, Councilmembers: Natarajan, Harrison and Chan
Noes:	None
Absent:	None
Abstain:	None

- \* **3.3 Mayor Wasserman opened consideration of Second Reading and Adoption of an Ordinance of the City of Fremont Amending Fremont Municipal Code Title VIII, Chapter 2, Article 19.1 Regarding Historic Resources**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council adopted Ordinance No. 22-2009.

Ayes:	Mayor Wasserman, Vice Mayor Wieckowski, Councilmembers: Natarajan, Harrison and Chan
Noes:	None
Absent:	None
Abstain:	None

- \* **3.4 Mayor Wasserman opened consideration of Exchange of Property Tax Increment Resulting from Territory within the City of Fremont Annexed to the Alameda County Water District**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council adopted Resolution No. 2009-77 providing for the exchange of property tax revenues equal to 90% of the share ACWD normally receives in a similar tax code area as the result of

the area located in Fremont known as the site of the future Warm Springs BART Station, being annexed into the Alameda County Water District.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**\* 3.5 Mayor Wasserman opened consideration of Authorization to Hold Joint Public Hearing with Agency Board on Proposed Plan Amendment**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council adopted Resolution No. 2009-78 authorizing a joint public hearing with the Agency Board on February 16, 2010 to consider the proposed Amended Plan and the accompanying Final SEIR and Final Report to Council/State Report, including an Amended Five-Year Implementation Plan.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**\* 3.6 Mayor Wasserman opened consideration of Authorization for the City Manager to Execute Such Documents as Necessary to Accept the Niles Town Plaza Property from the Redevelopment Agency**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council authorized the City Manager, or his designee, to take such action and execute such documents as necessary to accept conveyance of the Niles Town Plaza from the Redevelopment Agency of the City of Fremont.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**\* 3.7 Mayor Wasserman opened consideration of Delegation of Authority to City Manager during Council Recess, December 16, 2009 through January 11, 2010**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council adopted Resolution No. 2009-80 authorizing the City Manager or designee to approve and execute as necessary, on behalf of the City, the items set forth in this report, and to take the following actions:

\*Consent Items

1. Increase the City Manager's change order authority from 20% to 25% for the Niles Town Plaza Project, not to exceed \$100,000
2. Authorized the City Manager or designee to (1) approve additional funding for the Family Resource Center Soffit and Fascia Replacement project located at 39155 Liberty Street, Fremont, in the amount of \$41,000 for unforeseen conditions discovered during construction; (2) appropriate unallocated ARRA CDBG-R funding of \$41,000 to 194 PWC 8705; (3) direct staff to return any unused funds to Fund 194 PWC 8716 account at the closeout of the project; and (4) execute any other implementing documents.
3. Authorized the City Manager or designee to execute a Joint Powers Agreement with Newark Unified School District for the Youth and Family Services division of the Human Services Department to provide Healthy Choices school-site counseling services for an amount not to exceed \$5,094.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan

Noes: None

Absent: None

Abstain: None

**\* 3.8 Mayor Wasserman opened consideration of a Resolution Adopting Findings as a Responsible Agency Under the California Environmental Quality Act for the SFPUC Bay Division Pipeline No. 5 Project and Approval of a Memorandum of Agreement with SFPUC Covering the Construction of the Bay Division Pipeline No. 5 within City Right Of Way or Other City Property**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council:

1. Adopted Resolution No. 2009-81 Making Findings as a Responsible Agency Pursuant to California Environmental Quality Act for the Bay Division Pipeline Number 5 Project for which San Francisco Public Utility Commission is the Lead Agency.
2. Authorized the City Manager or his designee to execute a Memorandum of Agreement with the San Francisco Public Utilities Commission relating to the Bay Division Pipeline Number 5 Project as described herein; and approve amendments to the Agreement, if required, provided the amendments do not have any negative fiscal impact upon the City.
3. Authorized the City Manager or his designee to grant a no-cost Access Easement to the City and County of San Francisco, in accordance with the Memorandum of Agreement, for access to the SFPUC Bay Division Pipeline facilities near the Paseo Padre Parkway Grade Separation.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan

Noes: None

Absent: None

Abstain: None

\*Consent Items

**\* 3.9 Mayor Wasserman opened consideration of Adoption of a Resolution Authorizing the City Manager to Execute an Agreement to Accept a Grant from the Association of Bay Area Governments (ABAG) Bay Trail Projects for the Fremont Bay Trail Gap Feasibility Study**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council:

1. Adopted Resolution No. 2009-82 authorizing the City Manager or designee to execute a Planning Grant Agreement with the Association of Bay Area Governments (ABAG) for the Fremont Bay Trail Gap Feasibility Study.
2. Appropriated grant funds in the amount of \$75,000 to 525PWC 8707 (Bay Trail Alternative Alignment Study).

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**\* 3.10 Mayor Wasserman opened consideration of Approve the Plans and Specifications and Award a Construction Contract in the Amount of \$116,629 for the Purchase and Installation of Shade Shelters and Site Furnishings at the Central Park Dog Park, City Project No. PWC 8431A**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council:

1. Approved the Plans and Specifications for the Central Park Dog Park Shade Shelters, City Project No. PWC 8431A (Fund 182-PWC8431A-6106).
2. Awarded a construction contract to Ross Recreation Equipment Co., Inc., for the base bid amount of \$92,596, plus Alternate #1 for \$15,369 and Alternate #2 for \$8,664, for a total contract amount of \$116,629, and authorized the City Manager or his designee to execute the contract.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**\* 3.11 Mayor Wasserman opened consideration of the Development Impact Fee Annual Report for Fiscal Year 2008/09 and Findings Required by the Mitigation Fee Act**

On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council:

Adopted Resolution No. 2009-83 to approve the Development Impact Fee Annual Report for Fiscal Year 2008/09, and to make the findings required by the Mitigation Fee Act, as follows:

\*Consent Items

1. The purpose of the park dedication in-lieu fees is for all new residential development to pay for new development's share of the cost of acquiring land for parks in Fremont.
2. The purpose of the park facilities fees is to fund new development's share of the development of new recreational facilities in Fremont.
3. The purpose of the traffic impact fees is to fund new development's share of the development of new traffic improvements in Fremont.
4. The purpose of the fire facilities fees is to fund new development's share of the development of new fire facilities in Fremont.
5. The purpose of the capital facilities fees is to fund new development's share of the development of new capital facilities in Fremont.
6. The reasonable relationship between the park dedication in-lieu fee, park facility fee, traffic impact fee, fire facilities fee, and capital facilities fee and the purpose for which they are charged is demonstrated in the Park Dedication in-Lieu Fees and Park Facilities Fee Technical Report, Traffic Impact Fee Technical Report, Fire Facilities Technical Report, and Capital Facilities Fee Technical Report, each dated January 2008, the City Council resolutions adopting or adjusting the fees, and all reports supporting such resolutions, all of which are incorporated by reference.
7. The sources and amounts of funding anticipated to complete financing of future park dedication in-lieu fee, park facility fee, traffic impact fee, fire facilities fee, and capital facilities fee projects are identified in the Five-Year (2009-2014) Capital Improvement Program (CIP), adopted by the Fremont City Council on June 9, 2009.
8. Approximate dates of funding for park dedication in-lieu fee, park facilities fee, traffic impact fee, fire facilities fee, and capital facilities fee projects are identified in the Five-Year (2009-2014) Capital Improvement Program (CIP), adopted by the Fremont City Council on June 9, 2009.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan

Noes: None

Absent: None

Abstain: None

#### **4. CEREMONIAL ITEMS**

**4.1 Proclamation: Recognizing Vasona Management/Redwood Plaza for Receiving the 2009 GEMM Award for "Rental Property of the Year"**

#### **5. PUBLIC COMMUNICATIONS**

##### **5.1 Oral and Written Communications**

Wynn Grcich (A.T.O.W.N.) expressed concern about the potential contamination of local drinking water.

#### **6. SCHEDULED ITEMS – None.**

\*Consent Items

## **7. REPORT FROM CITY ATTORNEY**

### **7.1 Mayor Wasserman opened consideration of a Report Out from Closed Session of Any Final Action – None.**

## **8. OTHER BUSINESS**

### **8.1 Mayor Wasserman opened consideration of a Resolution Authorizing Execution of Specified Agreements with Affected Taxing Entities in Connection with the Proposed Amended Plan for the Fremont Merged Redevelopment Project Area**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Wieckowski, the City Council adopted Resolution No. 2009-84 authorizing execution of the City Revised Agreements with Specified Taxing Entities.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

### **8.2 Mayor Wasserman opened consideration of Second Reading and Adoption of an Ordinance of the City of Fremont Repealing and Reenacting Fremont Municipal Code Title VIII, Chapter 2, Article 21.3, Section 8-22135.1 Regarding Commercial, Industrial and Non-Residential Condominiums**

City Attorney Harvey Levine provided an overview of several options to change the proposed ordinance related to taxability of condominium reserves. Staff responded to questions from Councilmembers. There were no speakers. Councilmembers provided comment.

On a motion by Mayor Wasserman, seconded by Vice Mayor Wieckowski, the City Council conducted second reading and adopted Ordinance No. 23-2009.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan and Chan  
Noes: Councilmember Harrison  
Absent: None  
Abstain: None

### **8.3 Mayor Wasserman opened consideration of Adoption of a Resolution to Designate the City of Fremont as a “Recovery Zone” for the Purpose of Issuing Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds**

Acting Economic Development Director Lori Taylor provided an overview of the two types of Recovery Zone bonds and explained the purpose of designating a Recovery Zone. Staff responded to questions from Councilmembers. There were no speakers.

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On a motion by Councilmember Harrison, seconded by Councilmember Chan, the City Council:

1. Adopted Resolution No. 2009-85 to designate the entire geographic region of the City of Fremont as a Recovery Zone.
2. Directed staff from Economic Development and Finance to develop an application process to review proposals from companies.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

#### **8.4 Mayor Wasserman opened consideration of Presentation on the First Season of Park Operations at Aqua Adventure Waterpark**

Parks & Recreation Director Annabell Holland provided highlights of the first season and introduced Waterpark staff. Waterpark General Manager Kim Beranek presented general operating information and concluded the presentation with a summary of lessons learned and anticipated changes for 2010. Staff responded to questions from Councilmembers. There were no speakers. Councilmembers provided comment. No action was taken.

#### **8.5 Mayor Wasserman opened consideration of ABAG Multi-Jurisdictional Local Hazard Mitigation Planning**

Management Analyst Maya Williams provided an overview of the Mitigation Plan. Staff responded to questions from Councilmembers. There were no speakers. No action was taken.

### **9. COUNCIL COMMUNICATIONS**

#### **9.1 Council Referrals**

- 9.1.1 MAYOR WASSERMAN REFERRAL: Reappointments to advisory bodies with terms expiring as follows:

By consensus, the City Council appointed the following:

**Reappointments:**

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Art Review Board	Laurie Manuel	December 31, 2013
Economic Development Advisory Commission	Teresa Cox (At Large) Sheena Chang (Commercial/Industrial)	December 31, 2013 December 31, 2013

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<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
George W. Patterson House Advisory Board	Jessi Stokes (Mission Peak Heritage Foundation)	December 31, 2013
Historical Architectural Review Board	Ed Pentaleri	December 31, 2013
Human Relations Commission	Joseph T. Smith Sister Patricia Walsh Raj Salwan	December 31, 2013 December 31, 2013 December 31, 2013
Environmental Services Commission	Maria-Louise Javier (Youth Organization) Balbir Singh (At Large)	December 31, 2013 December 31, 2013
Library Advisory Commission	Robert Monkman	December 31, 2013
Planning Commission	Yogi Chugh Dirk Lorenz	December 31, 2013 December 31, 2013
Recreation Commission	Larry Thompson John Christman Laura Winter	December 31, 2013 December 31, 2013 December 31, 2013
Senior Citizens Commission	Marlene Berndt Susan TenEyck	December 31, 2013 December 31, 2013
Youth Advisory Commission	Nathaniel Hirai Sloka Gundala Mirai Shah Aditi Aggrwal Aniruddha Dayal Salil Babbar Anisha Babbar	December 31, 2011 December 31, 2011 December 31, 2011 December 31, 2011 December 31, 2011 December 31, 2011 December 31, 2011

9.1.2 VICE MAYOR WIECKOWSKI REFERRAL: Develop an Ordinance for City Council Consideration Prohibiting the Use of Polystyrene Foam Disposable Food Packaging.

Vice Mayor Wieckowski expressed his goal in bringing this request forward. Staff responded to questions from Councilmembers. Mayor Wasserman opened the item for public comment. Nina Moore (Fremont Chamber of Commerce) expressed the Chamber's efforts to reduce the City's carbon footprint and to help businesses be greener by providing information about best practices, and recommended that the Council allow businesses time to deplete existing polystyrene inventory and provide a

\*Consent Items

list of acceptable alternatives. Councilmembers provided comment and additional information for staff to address when it returns to Council with a proposed ordinance for its consideration.

On a motion by Vice Mayor Wieckowski, staff was directed to develop an Ordinance for City Council consideration to prohibit polystyrene foam disposable food packaging and requiring the use of environmentally preferable food packaging by retail food vendors and restaurants effective January 1, 2011.

Ayes: Mayor Wasserman, Vice Mayor Wieckowski,  
Councilmembers: Natarajan, Harrison and Chan  
Noes: None  
Absent: None  
Abstain: None

**9.2 Oral Reports on Meetings and Events – None.**

**10. ADJOURNMENT:** There being no further business, Mayor Wasserman adjourned the meeting at 9:30 p.m.

Attest:

Approved:

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Dawn G. Abrahamson, City Clerk

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BOB WASSERMAN, Mayor